

Subpart C—Changes Subject to PBGC Approval

- 4211.21 Changes subject to PBGC approval.
- 4211.22 Requests for PBGC approval.
- 4211.23 Approval of alternative method.
- 4211.24 Special rule for certain alternative methods previously approved.

Subpart D—Allocation Methods for Merged Multiemployer Plans

- 4211.31 Allocation of unfunded vested benefits following the merger of plans.
- 4211.32 Presumptive method for withdrawals after the initial plan year.
- 4211.33 Modified presumptive method for withdrawals after the initial plan year.
- 4211.34 Rolling-5 method for withdrawals after the initial plan year.
- 4211.35 Direct attribution method for withdrawals after the initial plan year.
- 4211.36 Modifications to the determination of initial liabilities, the amortization of initial liabilities, and the allocation fraction.
- 4211.37 Allocating unfunded vested benefits for withdrawals before the end of the initial plan year.

AUTHORITY: 29 U.S.C. 1302(b)(3); 1391(c)(1), (c)(2)(D), (c)(5)(A), (c)(5)(B), (c)(5)(D), and (f).

SOURCE: 61 FR 34097, July 1, 1996, unless otherwise noted.

Subpart A—General

§ 4211.1 Purpose and scope.

(a) *Purpose.* Section 4211 of ERISA provides four methods for allocating unfunded vested benefits to employers that withdraw from a multiemployer plan: the presumptive method (section 4211(b)); the modified presumptive method (section 4211(c)(2)); the rolling-5 method (section 4211(c)(3)); and the direct attribution method (section 4211(c)(4)). With the minor exceptions covered in § 4211.3, a plan determines the amount of unfunded vested benefits allocable to a withdrawing employer in accordance with the presumptive method, unless the plan is amended to adopt an alternative allocative method. Generally, the PBGC must approve the adoption of an alternative allocation method. On September 25, 1984, 49 FR 37686, the PBGC granted a class approval of all plan amendments adopting one of the statutory alternative allocation methods. Subpart C sets forth the criteria and procedures for PBGC approval of nonstatutory alternative

allocation methods. Section 4211(c)(5) of ERISA also permits certain modifications to the statutory allocation methods. The PBGC is to prescribe these modifications in a regulation, and plans may adopt them without PBGC approval. Subpart B contains the permissible modifications to the statutory methods. Plans may adopt other modifications subject to PBGC approval under subpart C. Finally, under section 4211(f) of ERISA, the PBGC is required to prescribe rules governing the application of the statutory allocation methods or modified methods by plans following merger of multiemployer plans. Subpart D sets forth alternative allocative methods to be used by merged plans. In addition, such plans may adopt any of the allocation methods or modifications described under subparts B and C in accordance with the rules under subparts B and C.

(b) *Scope.* This part applies to all multiemployer plans covered by title IV of ERISA.

§ 4211.2 Definitions.

The following terms are defined in § 4001.2 of this chapter: Code, employer, IRS, multiemployer plan, nonforfeitable benefit, PBGC, plan, and plan year.

In addition, for purposes of this part:

Initial plan year means a merged plan's first complete plan year that begins after the establishment of the merged plan.

Initial plan year unfunded vested benefits means the unfunded vested benefits as of the close of the initial plan year, less the value as of the end of the initial plan year of all outstanding claims for withdrawal liability that can reasonably be expected to be collected from employers that had withdrawn as of the end of the initial plan year.

Merged plan means a plan that is the result of the merger of two or more multiemployer plans.

Merger means the combining of two or more multiemployer plans into one multiemployer plan.

Prior plan means the plan in which an employer participated immediately before that plan became a part of the merged plan.